

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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FAO No.3504 of 2021 (O&M)
DATE OF DECISION : 07th FEBRUARY, 2022

Shri Ram General Insurance Company Limited

.... Appellant

Versus

Kamla Devi and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Sanjeev Kodan, Advocate for the appellant.

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RAJBIR SEHRAWAT, J. (Oral)

The present appeal has been filed by the appellant-Insurance Company against the award dated 18.03.2021 passed by the Motor Accident Claims Tribunal, Rewari, wherein the claim petition filed by the injured/claimant was allowed and she was held entitled to compensation to the tune of Rs.12,75,661/- along with interest @ 6% per annum.

For the purpose of the present appeal, the parties would be referred to as they were described in the original claim petition filed before the Tribunal.

The brief facts giving rise to this appeal are that on 13.03.2018, the claimant was going to village Khori from Harsoli along with co-villager Jugbir in a car bearing registration No.HR-76-A-5423. At about 10.00/11.00 P.M. the offending vehicle i.e. Canter bearing registration No.HR-55S-1048, which was being driven by respondent No.1 in a rash and negligent manner at a very high speed hit the car in which the claimant was

travelling. Due to the impact, the claimant sustained injuries and she was admitted to the hospital. The matter was reported to the police and FIR No.75 dated 18.03.2018 under Sections 279 and 337 IPC was registered at Police Station Kotkasim, District Alwar. With these facts, the claim petition was filed by the injured/claimant asserting therein that she had spent around Rs.11.00 Lakhs as expenses for the treatment. Besides this, it was also asserted that she was earning Rs.15,000/- per month and because of the injuries, she has suffered the loss on account of loss of earning.

On being put to notice, respondent Nos.1 and 2 filed their joint written statement asserting therein that the facts mentioned in the FIR are false. It was further asserted that the injured/claimant was not earning Rs.15,000/- per month, nor was she assisting her husband in meeting the household expenses. Still further, it was asserted that no accident had ever taken place with the offending vehicle. Respondent No.3-insurance company had filed separate written statement. Besides asserting that the driver of the offending vehicle was not having the valid driving licence, it was asserted that the terms and conditions of the policy were violated by the driver of the offending vehicle. It was also asserted by the insurance company that the amount claimed was exorbitant and that the claimant was not earning Rs.15,000/- per month.

The parties led their respective evidence. The claimant herself appeared as witness as PW-1 and examined Jugbir Singh as PW-2, Ram Kishan as PW-3 and Kapil Chaudhary as PW-4, the hospital official, who proved the admission and treatment record and expenses of the treatment charged by the hospital. On the other hand, the respondents tendered in evidence the copy of permit of the vehicle, copy of registration certificate, copy of driving licence, copy of insurance policy and copy of fitness

certificate of the vehicle. After considering the evidence of the parties, the Tribunal has awarded total amount of Rs.12,75,661/-, which includes medical expenses, pain and sufferings, attendant charges, special diet, transportation expenses & disability and loss of future income.

Arguing the case, the counsel for the appellant has submitted that the Tribunal has gone wrong in law in granting the compensation to the claimant. The claimant has not proved the treatment bills in accordance with law. Only the photocopies of the same have been placed on record. Hence, the medical expenses have not been duly proved.

Having heard the counsel for the appellant, this Court does not find any ground to interfere in the matter qua the assertions of the appellant. It is not even in dispute that on account of the injuries, the injured/claimant remained in hospital as an indoor patient from 14.03.2018 till 13.04.2018 in the first instance; and thereafter from 23.04.2018 till 25.04.2018. The Record Clerk of the Paras Hospital, which is a corporate hospital, PW-4 Kapil Chaudhary has been examined by the claimant. This witness has proved the indoor admission of the claimant, as well as, the charges leveled by the hospital. Therefore, mere fact that the claimant could produce only the photocopies of the bills issued by the hospital is not of much relevance. The basic evidence, in that situation, becomes the evidence of the hospital where the claimant remained as indoor patient and the corporate hospital charged the amount for treatment. It deserves to be highlighted that the major bills are only qua hospital charges, and not the private bills. Moreover, the claimant has given an explanation as to why she was not able to produce the original bills. It has come on record by way of affidavit of the claimant that the polythene bag, in which the original bills were kept; went missing while she was travelling to the Courts at Rewari in a bus. Therefore,

accepting the arguments of the insurance company that only photocopies of the bills have been placed; would be denying substantial justice on hyper technical objection taken by the insurance company. Needless to say that the argument could have some force had the claimant not examined the hospital official to prove the admission of the claimant in the hospital and the expenses charged by the hospital. But the hospital record in this regard has been duly brought before the Tribunal.

No other argument was raised.

In view of the above, finding no merit qua the pleas raised by the appellant in the present appeal, the same is dismissed.

07th FEBRUARY, 2022
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *Yes*